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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/731,318	12/06/2000	Steve Paboojian	015225-005420US	1028

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NEKTAR THERAPEUTICS  
150 INDUSTRIAL ROAD  
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EXAMINER

MENDOZA, MICHAEL G

ART UNIT PAPER NUMBER

3734

DATE MAILED: 12/04/2006

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/731,318  
Filing Date: December 06, 2000  
Appellant(s): PABOOJIAN ET AL.

**MAILED**  
**DEC 04 2006**  
**GROUP 3700**

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Paboojian et al.  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 14 September 2006 appealing from the  
Office action mailed 19 August 2006.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

No amendment after final has been filed.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Watt et al. 3980074.

Watt et al. teaches a receptacle comprising: a receptacle body that defines an enclosed cavity containing powdered medicament (col. 2, lines 27-28), wherein the receptacle body has a top end and a bottom end, and wherein the bottom end of the receptacle body includes a raised central region that extends upwardly into the cavity; wherein the receptacle body further comprises at least one curved wall that in combination with the raised central region forms a generally semi-toroidal geometry in the cavity; wherein a portion of the bottom end is flat in geometry; and wherein the receptacle body further includes a tab extending from the cavity (see figures).

**(10) Response to Argument**

The Appellant argues that the device of Watt et al. does not disclose an enclosed cavity. The definition of enclosed as stated in the final rejection is: surrounded by walls, objects or structures. The Examiner disagrees that the device of Watt et al. does not enclose a cavity. The cavity is enclosed by a sidewall, a bottom, and a removable top. Although the top has vents the cavity is still enclosed. An example of an enclosure is cage. The bars of a cage enclose a defined space and is still open to the surrounding environment.

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**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.


For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael Mendoza".

Michael Mendoza

Conferees:

A handwritten signature in black ink, appearing to read "Tom Hughes".

Tom Hughes

A handwritten signature in black ink, appearing to read "Michael Hayes".

Michael Hayes